

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CHARLES AL PINE,
Plaintiff,
v.
VANESSA GILMORE,
Defendant.

Case No. [18-cv-06892-JD](#)

ORDER OF DISMISSAL

Re: Dkt. No. 3


Petitioner, a prisoner in Texas, has filed a habeas action, though a review of the petition indicates that he seeks relief pursuant to 42 U.S.C. § 1983. Venue generally is proper in a judicial district in which: (1) any defendant resides, if all defendants are residents of the state in which the district is located; (2) a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated; or (3) any defendant is subject to the court's personal jurisdiction, if there is no district in which the action may otherwise be brought. 28 U.S.C. § 1391(b).

No defendant is located in this district, no actions or omissions giving rise to petitioner's claims took place in this district, and petitioner himself is not in this district. Therefore, this district is not the proper venue for petitioner's claims. *See* 28 U.S.C. 1391. Accordingly, pursuant to 28 U.S.C. 1406(a), this case is **DISMISSED** without prejudice to petitioner filing his civil rights complaint in a federal district court where the venue is proper under 28 U.S.C. 1391.¹ Petitioner's motion to proceed in forma pauperis (Docket No. 3) is **DENIED**. A Certificate of

¹ To the extent some of the allegations concern petitioner's sentence, the Court has already transferred several of petitioner's habeas cases. Because this case would need to be reclassified as a civil rights action with a larger filing fee than a habeas action, petitioner can determine if he wishes to pay the filing fee in Texas.

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Appealability is **DENIED**.
IT IS SO ORDERED.
Dated: January 29, 2019



JAMES DONATO
United States District Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CHARLES AL PINE,
Plaintiff,

v.

VANESSA GILMORE,
Defendant.

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on January 29, 2019, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Charles Al Pine
T.D.C.J. #1422624
Housing 12-F57
Iowa Park, TX 76367

Dated: January 29, 2019

Susan Y. Soong
Clerk, United States District Court

By: 
LISA R. CLARK, Deputy Clerk to the
Honorable JAMES DONATO